

CHAPTER 248

CRIMINAL LAW AND PROCEDURE

SENATE BILL 08-134

BY SENATOR(S) Kopp, Brophy, Harvey, Mitchell S., Penry, Renfro, Spence, Taylor, Cadman, Gibbs, Isgar, Kester, McElhany, Schultheis, Shaffer, Tochtrop, Tupa, Ward, and Wiens;
also REPRESENTATIVE(S) McNulty, Gardner C., Garza-Hicks, Kerr J., King, Labuda, Rose, Stephens, and Summers.

AN ACT

CONCERNING THE CREATION OF A COUNTY JAIL ASSISTANCE FUND CAPITALIZED BY CERTAIN FORFEITED BONDS PAID ACCORDING TO A NEWLY CREATED BOND SCHEDULE, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Schedule I and II controlled substances include such dangerous drugs as methamphetamine, cocaine, and heroin;

(b) The distribution of methamphetamine, cocaine, and heroin poses a significant threat to communities and families in Colorado;

(c) The distribution of methamphetamine, cocaine, and heroin often involves violence; and

(d) The use of methamphetamine, cocaine, and heroin has devastating effects on the families of the users and ultimately on all of the citizens of Colorado.

(2) Therefore, the general assembly determines, based on the negative effect that the distribution of schedule I and schedule II controlled substances has on the state, that the state shall set a statutory minimum amount of bail for such persons.

SECTION 2. 16-3-503 (2), Colorado Revised Statutes, is amended to read:

16-3-503. Bonds recovered for persons illegally in the country. (2) FIFTY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PERCENT OF the AMOUNT OF bonds and fees forfeited pursuant to subsection (1) of this section shall be credited to the capital construction fund created in section 24-75-302, C.R.S., for appropriation to the corrections expansion reserve fund created in section 17-1-116, C.R.S., for the purpose of prison bed construction and prison operations. FIFTY PERCENT OF THE AMOUNT OF BONDS AND FEES FORFEITED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE CREDITED TO THE COUNTY JAIL ASSISTANCE FUND CREATED IN SECTION 17-26-137, C.R.S.

SECTION 3. Part 1 of article 26 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-26-137. County jail assistance fund. THE MONEYS COLLECTED PURSUANT TO SECTION 16-3-503 (1), C.R.S., SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE COUNTY JAIL ASSISTANCE FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF CORRECTIONS FOR ALLOCATION TO COUNTIES FOR THE MAINTENANCE AND OPERATION OF COUNTY JAILS. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

SECTION 4. 16-4-103 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16-4-103. Fixing of bail and conditions of bail bond. (1) (d) (I) IF A PERSON IS ARRESTED FOR DISTRIBUTION OF A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE PURSUANT TO SECTION 18-18-405, C.R.S., THEN THE COURT SHALL SET BAIL FOR SUCH PERSON AT FIFTY THOUSAND DOLLARS; EXCEPT THAT, UPON THE MOTION OF THE DISTRICT ATTORNEY OR DEFENDANT AND A SHOWING OF GOOD CAUSE, THE COURT MAY SET BAIL AT AN AMOUNT OTHER THAN THE SPECIFIED AMOUNT.

(II) THE BAIL AMOUNT SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) SHALL BE ADJUSTED FOR INFLATION ON JANUARY 1, 2018, AND ON JANUARY 1 EVERY TEN YEARS THEREAFTER. THE ADJUSTMENT SHALL BE BASED ON THE CUMULATIVE ANNUAL ADJUSTMENT FOR INFLATION FOR EACH YEAR SINCE THE EFFECTIVE DATE OF THIS PARAGRAPH (d). THE ADJUSTMENTS MADE PURSUANT TO THIS SUBPARAGRAPH (II) SHALL BE ROUNDED UPWARD OR DOWNWARD TO THE NEAREST TEN-DOLLAR INCREMENT.

(III) AS USED IN THIS PARAGRAPH (d), "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE OF INFLATION INDICATED IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-BOULDER, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

(IV) THE STATE COURT ADMINISTRATOR SHALL CERTIFY THE ADJUSTED BAIL

AMOUNT WITHIN FOURTEEN DAYS AFTER THE APPROPRIATE INFORMATION IS AVAILABLE. THE ADJUSTED BAIL AMOUNT SHALL BE APPLICABLE TO ALL PENDING CASES ONE MONTH AFTER ITS CERTIFICATION.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the county jail assistance fund created in section 17-26-137, Colorado Revised Statutes, not otherwise appropriated, to the department of corrections, for the fiscal year beginning July 1, 2008, the sum of two thousand fifty-three dollars (\$2,053) cash funds, or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. Effective date - applicability. This act shall take effect July 1, 2008, and section 4 of this act shall apply to cases filed on or after said date.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 20, 2008